

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

FAST MEMORY ERASE, LLC

Plaintiff,

v.

SPANSION INC. and SPANSION LLC.

Defendants.

Civil Case No. 3:09-cv-00653-M

Jury Trial Demanded

**DEFENDANTS SPANSION, INC. AND SPANSION LLC'S MOTION  
FOR A PROTECTIVE ORDER PREVENTING  
MATTHEW VELLA ACCESS TO SPANSION CONFIDENTIAL INFORMATION**

Defendants Spansion, Inc. and Spansion LLC (collectively, "Spansion") submit this motion to prevent confidential information from being disclosed to Matthew Vella. In this regard, Spansion relies on the arguments contained in STMicroelectronics, Inc.'s and STMicroelectronics, NV's (collectively, ST Micro) Motion for Protective Order filed in Case No. 3:08-CV-00977-M on May 20, 2009. (Dkt. No. 176 in No. 3:08-CV-00977-M (the 00977-M case)) (ST's PO Motion).

During the automatic stay that applied to Spansion under 11 U.S.C. § 362, Plaintiff Fast Memory Erase (FME) sought permission from the 00977-M case to disclose confidential information to Matthew Vella. FME also recently stated that it wants to disclose Spansion confidential information to Mr. Vella. See App. at 24.

In response to FME's request, ST Micro filed ST's PO Motion in the 00977-M case. (Dkt. No. 176, 00977-M case). In ST's PO Motion, ST Micro seeks an order preventing disclosure of its confidential information to Mr. Matthew Vella because, in essence, Mr. Vella is

not an FME employee and instead works for Acacia Technologies, an entity to whom disclosure of confidential information would put ST Micro at a competitive disadvantage.

Indeed, Acacia Technologies' (Acacia) is a patent licensing business that does not design or manufacture products. Its webpage states that:

“Mr. Vella joined the company in November 2006 as Vice President. He was appointed Senior Vice President in October 2007.”

See App. at 4; see also Acacia Technologies About Us Page,

[http://acaciatechnologies.com/aboutus\\_mgmtbizdev.htm](http://acaciatechnologies.com/aboutus_mgmtbizdev.htm) (last visited June 24, 2009). The Acacia web presentation also identifies Mr. Vella as being a Senior Vice President involved in “business development and licensing” for Acacia. See App. at 14.

Disclosure of Spansion’s confidential information would also place Spansion at a disadvantage. Acacia claims to have “16 patents covering technologies for enhancing performance & reliability of the flash memory cell including NOR flash memory. . . .” See App. at 13; see also Acacia Technologies Web Presentation Page, <http://acaciatechnologies.com/docs/2009ACTGWebPresentation.pdf> at 12 (last visited June 26, 2009). If Mr. Vella is permitted access to Spansion’s confidential information, he may bring additional lawsuits against Spansion.

Because FME has not provided any evidence that Mr. Vella is actually in FME’s employ as “in-house counsel” as required under the Protective Order, he should not be given access to confidential information. It is simply not clear that Mr. Vella is truly an in-house attorney for FME. FME has provided no evidence, such as paycheck stubs, W-2 forms, or tax records, showing Mr. Vella is in FME’s employ. FME claims to be a Texas corporation with its principal place of business located at 15455 Dallas Parkway, 6th Floor, Addison, Texas 75001. (Dkt. No. 98, 00977-M Case, at 2) As set forth in Acacia’s website, *supra*, and the Executive Affiliation

report, Mr. Vella's business address places him at 500 Newport Court Drive, Suite 570, in Newport Beach, California. See App. at 16. This is Acacia's address. Id. There is also no record that Mr. Vella is a licensed Texas attorney or that he submitted an affidavit showing compliance with the Texas State Bar requirements for a non-Texas licensed attorney to represent or provide advice as in-house counsel to a Texas corporation. See App. at 18.

Therefore, for the reasons set forth herein and in ST's PO Motion, Spansion likewise seeks the Court to enter an order protecting Spansion's confidential information from being disclosed to Mr. Vella. Spansion respectfully requests the Court to enter a protective order denying Mr. Vella any access to Confidential Information under the Stipulated Protective Order entered by this Court on December 22, 2008 (Dkt No. 105, 00977-M Case).

Respectfully submitted,

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**CERTIFICATE OF CONFERENCE**

On June 26, 2009, counsel for Spansion and counsel for FME conferred on the issues addressed herein. No agreement was reached, and this Motion for Protective Order Preventing Matthew Vella Access to Spansion's Confidential Information is opposed.

By: /s/ Cynthia Lopez Beverage

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon counsel of record, who has consented to electronic service through the Court's CM/ECF system on this 26th day of June, 2009.

/s/ Russell W. Warnick

Russell W. Warnick